

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Oversight and Productivity Committee

BILL: CS/SB 1632

INTRODUCER: Governmental Oversight and Productivity Committee and Senator Bennett

SUBJECT: Agency Inspectors General

DATE: March 29, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Wilson	GO	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides that at the conclusion of an audit undertaken by an agency inspector general, if the preliminary findings or conclusions address issues with work being done by a contractor to the agency, the inspector general must submit those preliminary findings to the contractor, which may respond within twenty days after receipt of the findings. The responses and the inspector general's rebuttal will be included in the final report.

This bill amends section 20.055 of the Florida Statutes.

II. Present Situation:

Agency Inspectors General:

Section 20.055, F.S., requires that each agency created in the organizational structure of state government have contained within an inspector general office. The office is created to provide a focal point of accountability efforts within the agency. Each office is given nine enumerated statements of expectation that include:

- The development of performance standards, their validation, and the compliance of agency activities with them;
- Assessing the reliability and validity of information provided by the agency on performance measures and standards;
- Improving agency performance;
- Supervising and coordinating audits, investigations and reviews relating to the operations of the state agency;

- Conducting, supervising, or coordinating other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;
- Providing central coordination of efforts to identify and remedy waste, fraud, and abuse.
- Coordinating agency-specific audit activities with those of peer federal and state agencies;
- Reviewing rules relating to the programs and operations of the agency and making recommendations concerning their impact.
- Maintaining a balance among audit, investigative, and other accounting activities of the agency.

Inspectors General are appointed by the agency head and, while representatives of management, they may be removed only by the agency head after seven days' prior notification of the singular or collegial executive.

Inspectors general must possess minimum educational and experience qualifications and the investigations they conduct must adhere to specific internal auditing standards. Final reports are submitted to the agency head and the Auditor General whose office is directed to give official recognition to their findings and recommendations as part of its post-audit responsibilities.

Each inspector general must review and evaluate internal controls necessary to ensure the fiscal accountability of the state agency. The inspector general must conduct financial, compliance, electronic data processing, and performance audits of the agency and prepare audit reports of his or her findings. The performance of the audit shall be under the direction of the inspector general, except that if the inspector general does not possess the specified qualifications, the director of auditing must perform the audit functions.

Audits must be conducted in accordance with the current Standards for the Professional Practice of Internal Auditing and subsequent Internal Auditing Standards or Statements on Internal Auditing Standards published by the Institute of Internal Auditors, Inc., or, where appropriate, in accordance with generally accepted governmental auditing standards. All audit reports issued by internal audit staff shall include a statement that the audit was conducted pursuant to the appropriate standards.

Audit workpapers and reports must be public records to the extent that they do not include information which has been made confidential and exempt from the provisions of s. 119.07(1), F.S., pursuant to law, with exceptions for the Whistle-blowers Act.

The inspector general must have access to any records, data, and other information of the state agency he or she deems necessary to carry out his or her duties. The inspector general is also authorized to request such information or assistance as may be necessary from the state agency or from any federal, state or local government entity.

Section 20.055(5)(d), F.S., provides that at the conclusion of each audit, the inspector general must submit preliminary findings and recommendations to the person responsible for supervision

of the program function or operational unit who must respond to any adverse findings within 20 working days after receipt of the tentative findings. Such response and the inspector general's rebuttal to the response must be included in the final audit report. The inspector general must submit the final report to the agency head and to the Auditor General.

The Auditor General, in connection with the independent postaudit of the same agency must give appropriate consideration to internal audit reports and the resolution of findings therein. The Legislative Auditing Committee may inquire into the reasons or justifications for failure of the agency head to correct the deficiencies reported in internal audits that are also reported by the Auditor General and must take appropriate action.

The inspector general must monitor the implementation of the state agency's response to any report on the state agency issued by the Auditor General or by the Office of Program Policy Analysis and Government Accountability. No later than 6 months after the Auditor General or the Office of Program Policy Analysis and Government Accountability publishes a report on the state agency, the inspector general must provide a written response to the agency head on the status of corrective actions taken. The Inspector General must file a copy of such response with the Legislative Auditing Committee.

The inspector general must develop long-term and annual audit plans based on the findings of periodic risk assessments. The plan, where appropriate, should include postaudit samplings of payments and accounts. The Chief Financial Officer, to assist in fulfilling the responsibilities for examining, auditing, and settling accounts, claims, and demands related to claims against the state, and examining, auditing, adjusting, and settling accounts relating to those indebted to the state, may utilize audits performed by the inspectors general and internal auditors. For state agencies under the Governor, the audit plans shall be submitted to the Governor's Chief Inspector General. The plan must be submitted to the agency head for approval, and a copy of the approved plan must be submitted to the Auditor General.

In carrying out its investigative duties and responsibilities, each inspector general must initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. For these purposes, each state agency must:

- Receive complaints and coordinate all activities of the agency as required by the Whistle-blower's Act.
- Receive and consider the complaints which do not meet the criteria for an investigation under the Whistle-blower's Act and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the inspector general deems appropriate.
- Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the inspector general has reasonable grounds to believe there has been a violation of criminal law.
- Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the inspector general or the inspector general's office. This must include freedom from any interference with investigations and timely access to records and other sources of information.

- Submit in a timely fashion final reports on investigations conducted by the inspector general to the agency head.

Each inspector general must submit a yearly report on its activities to the agency head.

The Chief Inspector General:

Section 14.32, F.S., creates in the Executive Office of the Governor the Office of Chief Inspector General. The Chief Inspector General serves as the inspector general for the Executive Office of the Governor. The Chief Inspector General is responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor, and is appointed by and serves at the pleasure of the Governor. The duties of the Chief Inspector General include:

- Undertaking investigations and recommending policies designed to deter, detect, prevent, and eradicate fraud, waste, abuse, mismanagement, and misconduct in government.
- Investigating any administrative action of any agency under the direct supervision of the Governor.
- Requesting assistance and information as needed.
- Examining the records and reports of any agency under the supervision of the Governor.
- Coordinating complaint-handling activities with agencies.
- Coordinating the activities of the Whistle-blower's Act pursuant to chapter 112 and maintaining the whistle-blower's hotline to receive complaints and information concerning the possible violation of law or administrative rules, mismanagement, fraud, waste, abuse of authority, malfeasance, or a substantial or specific danger to the health, welfare, or safety of the public.
- Working with the Department of Law Enforcement, the Department of Legal Affairs, and other law enforcement agencies when there are recognizable grounds to believe that there has been a violation of criminal law or that a civil action should be initiated.
- Acting as liaison with outside agencies and the Federal Government to promote accountability, integrity, and efficiency in state government.
- Acting as liaison and monitoring the activities of the inspectors general in the agencies under the Governor's jurisdiction.
- Reviewing, evaluating, and monitoring the policies, practices, and operations of the Executive Office of the Governor.
- Conducting special investigations and management reviews at the request of the Governor.

Responses to Auditor General and OPPAGA Reports:

Pursuant to s. 11.45, F.S., the Auditor General conducts financial audits, operational audits, and performance audits of any governmental entity created or established by law. At the conclusion of the audit, the Auditor General or designated representative must discuss the audit with the official whose office is subject to audit and submit to that official a list of the Auditor General's findings which may be included in the audit report. The official must submit to the Auditor General, within 30 days after the receipt of the list of findings, his or her written statement of explanation or rebuttal concerning all of the findings, including corrective action to be taken to

preclude a recurrence of all findings. The Auditor General includes in its final reports the response of the audited entity, in conformity with government auditing standards.

Pursuant to s. 11.51, F.S., the Office of Program Policy Analysis and Government Accountability (OPPAGA) performs independent examinations and program reviews of all entities and records that the Auditor General is authorized to examine. At the conclusion of an examination, the designated representative of the director of the OPPAGA must discuss the examination with the official whose office is examined and submit to that official the OPPAGA's preliminary findings. If the official is not available for receipt of the preliminary findings, delivery is presumed to be made when it is delivered to his or her office. Whenever necessary, the OPPAGA may request the official to submit his or her written statement of explanation or rebuttal within 15 days after the receipt of the findings. If the response time is not requested to be within 15 days, the official shall submit his or her response within 30 days after receipt of the preliminary findings. The OPPAGA includes in its final reports the written responses of the examined entities, though not specifically required to do so by statute.

III. Effect of Proposed Changes:

The bill amends s. 20.055(5)(d), F.S., by providing that at the conclusion of an audit undertaken by an agency inspector general, if the preliminary findings or conclusions address issues with work being done by a vendor or provider to the agency, the inspector general must submit those preliminary findings to the vendor or provider, which may respond within twenty days after receipt of the findings. Those responses and the inspector general's rebuttal to those responses must be included in the final audit report.

The bill takes effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Audit workpapers and reports are public records to the extent that they do not include information which has been made confidential and exempt pursuant to law, with a narrow exception for the name of a person bringing a complaint under the Whistle-blower Act.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If a vendor that contracts with an agency is implicated in an inspector general investigation, and wishes to respond to the preliminary findings, the vendor may incur minimal costs in doing so. Those costs are indeterminate.

C. Government Sector Impact:

An inspector general may incur costs in submitting preliminary findings to a contract vendor, and rebutting the responses received from the vendor. Those costs are indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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